

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**SEAN PATRICK TWEEDIE,**

**Plaintiff,**

v.

**Civil Action No. 5:11cv162  
(Judge Stamp)**

**JAMES SPENCER,**

**Defendant.**

**REPORT AND RECOMMENDATION**

On November 14, 2011, the plaintiff initiated this case by filing a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a motion for leave to proceed *in forma pauperis* (“IFP”). On that same day, the Court sent him a notice of deficiency, advising him that within twenty-one (21) days, or by December 5, 21011, he was required to provide a copy of his prisoner trust account report and copies of his ledger sheets.

The plaintiff never complied with the deficiency notice. On December 13, 2011, the Court issued an Order to show cause why his case should not be dismissed without prejudice, directing the plaintiff to respond by December 28, 2011.

Upon a review of the file on this date, the plaintiff has failed to provide copies of his prisoner trust account report and ledger sheets, has not requested additional time to do so, nor otherwise explained the reasons for noncompliance. Accordingly, it is recommended that the plaintiff’s complaint be **DISMISSED without prejudice** for the failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

**Within fourteen (14) days** after being served with a copy of this recommendation, any party may file with the Clerk of Court written objections identifying those portions of the report and recommendation to which objection is made and the basis for such objections. A copy of any objections shall also be submitted to the United States District Judge. **Failure to timely file objections to this opinion will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation.** 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket.

Dated: February 7, 2012.

/s/ James E. Seibert \_\_\_\_\_  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE